

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT PETITION No.666 of 1998

Between:

The Depot Manager, APSRTC,
Kushaiguda depot.

..... PETITIONER

AND

1.J.Y.Reddy, Ex.Driver, E.201233
Inupamula, Kotapalli Mandal,
Nalgonda District and another.

.....RESPONDENTS

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The Hon'ble Sri Justice C.V.Nagarjuna Reddy

-
Writ Petition No.666 of 1998

Order:

The Depot Manager of the Andhra Pradesh State Road Transport Corporation, Kushaiguda depot filed this Writ Petition questioning the award dated 12-09-1996 passed by the Labour Court.III, Hyderabad, in I.D.No.579 of 1993 filed by the first

respondent. By the said award, the Labour Court allowed the Industrial Dispute and directed first respondent's reinstatement into service with continuity of service and 25% of back wages.

The first respondent, who was a driver in the petitioner's depot, caused an accident on 21-08-1988, when he was driving a bus bearing No.AAZ 7160 on route No.17. The said accident resulted in death of a cyclist on the spot. This lead to framing of the following two charges against the first respondent:

- (1) For having driven the vehicle AAZ 7160 in a rash and negligent manner on route No.17 on 21.8.88, resulting in death of a cyclist.
- (2) For your lack of anticipation while negotiating a curve while driving the vehicle AAZ 7160 on route no.17 on 21.8.88 resulting in to the passenger hit by the bus and succumbed to injuries.

After completion of the enquiry, the Enquiry Officer submitted an enquiry report wherein the first respondent was found guilty of both the charges. Pursuant to the said enquiry report, the petitioner-Corporation passed an order of removal *vide* proceedings dated 07-01-1993, removing the first respondent from service. This order was challenged before the second respondent-Labour Court and the Labour Court by its award impugned in this Writ Petition directed reinstatement of the

petitioner into service along with continuity of his service and 1/4th of back wages.

Heard Sri V.S.K.Rama Rao, the learned Counsel representing the petitioner and Sri V.R.Balachary, the learned Counsel appearing for the first respondent.

Sri V.S.K.Rama Rao, the learned Counsel for the petitioner, contended that the second respondent-Labour Court committed an error in allowing the Industrial Dispute raised by the first respondent inasmuch as one of the grounds on which the second respondent-Labour Court allowed the said Industrial Dispute was that the first respondent was acquitted in a criminal case. The learned Counsel further submitted that on the basis of the evidence adduced by the parties, the Enquiry Officer came to the conclusion that both the charges were proved against the first respondent and the disciplinary authority having accepted the same, removed the first respondent from service. Therefore, according to the learned Counsel, no interference was warranted by the second respondent-Labour Court and the impugned award is liable to be set aside.

Per contra, Sri V.R.Balachary, the learned Counsel for the first respondent, submitted that the second respondent-Labour Court was justified in holding that there was absolutely no material on record to the Enquiry Officer to come to the conclusion that the first respondent was guilty of the charges levelled against him for his rash and negligent driving resulting in the death of a cyclist.

I have perused the enquiry report. Before the Enquiry Officer, two witnesses were examined on behalf of the Management. They were Senior Traffic Inspector *viz.*, Sri P.Gowrayya, and Conductor *viz.*, Sri Janaiah.

Though Sri P.Gowrayya has stated that the accident has taken place due to the rash and negligent driving of the first respondent, the service conductor-Sri Janaiah, who was the eyewitness, categorically stated that while the bus was proceeding towards Kushaiguda from Secunderabad Station and it reached the Rail Kalyan on Mettuguda road, he observed that one cyclist, who was coming from Tarnaka, has swerved his cycle suddenly towards the railway hospital side. The first respondent has applied sudden breaks, but the cyclist dashed against the

bus and fell down duly hitting the bus bumper. He further opined that the bus driver has tried his best to avoid the accident but he could not succeed in doing so and that there was no fault on the part of the driver of the bus.

Admittedly Sri P.Gowrayya, the Senior Traffic Inspector, was not an eyewitness to the accident whereas the service conductor-Sri Janaiah was an eyewitness. The enquiry report shows that the Enquiry Officer has not given proper reasons to discard the evidence of the service conductor-Sri Janaiah, who was the eyewitness. The enquiry report further shows that the Enquiry Officer relied upon a report of the Joint Accident Enquiry Committee constituted by the Depot Manager, Hayatnagar depot and also the opinion of the Depot Manager, Kushaiguda depot to the effect that the first respondent was responsible for the accident. It does not appear from the record that these two reports were marked as evidence and the first respondent was given an opportunity to rebut the contents of the said reports. The second respondent-Labour Court, in my view, correctly came to the conclusion that there was no material before the Enquiry Officer to come to the conclusion that the first respondent was guilty of

his rash and negligent driving resulting in the death of a cyclist. The judicial review under Article 226 of the Constitution of India in matters of this nature being limited to the examination of error on record, this Court is satisfied that the Labour Court has not committed any error warranting interference of this Court in exercise of its writ jurisdiction.

The Writ Petition, therefore, fails and it is, accordingly, dismissed. No costs.
